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HOUSE BILL 747

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

HENRY KIKI SAAVEDRA

AN ACT

RELATING TO STATE LOTTERY REVENUES; CHANGING THE DISPOSITION OF  
NET LOTTERY REVENUES TO EARMARK SIXTY PERCENT FOR PUBLIC SCHOOL  
MIDDLE SCHOOL AND JUNIOR HIGH SCHOOL EXTRACURRICULAR ACTIVITIES;  
CREATING A FUND; MAKING AN APPROPRIATION; AMENDING AND ENACTING  
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] FINDINGS AND PURPOSE. --

A. The legislature finds that a substantial part of  
New Mexico's criminal activities originates when its youth,  
especially those in their middle school years, are deprived of  
constructive alternatives to juvenile crime. Therefore,  
establishing and conducting supervised extracurricular  
activities in middle schools should be a major factor in  
mitigating the effects of gangs, drugs, classroom disruptions,

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1 thefts, murders, suicides and other antisocial activities of  
2 this group of at-risk youth.

3 B. It is the purpose of this act to fund the  
4 establishment of extracurricular programs, particularly sports  
5 programs, for middle school youth. Successful implementation of  
6 these programs will eventually alleviate overcrowded conditions  
7 in New Mexico's juvenile and adult correctional facilities,  
8 contribute to a considerably lower recidivism rate and tend to  
9 raise educational performance among New Mexico youth, thus  
10 contributing to tangible savings in state expenditures, which  
11 can be applied to other programs, including education.

12 Section 2. [NEW MATERIAL] PUBLIC SCHOOL EXTRACURRICULAR  
13 ACTIVITIES FUND CREATED--PURPOSE. --

14 A. The "public school extracurricular activities  
15 fund" is created in the state treasury and shall be administered  
16 by the state department of public education. The fund shall  
17 consist of net lottery revenues distributed to the fund and any  
18 other appropriations, deposits, transfers or money otherwise  
19 accruing to the fund. Earnings from investment of the fund  
20 shall be credited to the fund. Any balance in the fund at the  
21 end of any fiscal year shall remain in the fund for use for the  
22 purposes of the fund.

23 B. Money in the public school extracurricular  
24 activities fund is appropriated to the state department of  
25 public education for distribution to school districts to

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1 establish and conduct extracurricular activities at the middle  
2 schools and junior high schools in the district. The amount to  
3 be distributed to each district annually shall be the amount  
4 determined by multiplying the balance in the fund on August 1 by  
5 the percentage that the school district's membership is of total  
6 school district membership.

7 C. Lottery revenue distributed to the school  
8 districts shall be used solely for establishing and conducting  
9 extracurricular activities for middle school and junior high  
10 school students. School districts shall use the lottery revenue  
11 as provided in this subsection and shall combine or match this  
12 revenue with revenue and support from other sources available  
13 for the same purpose, such as the Albuquerque middle school  
14 initiative. In addition to the specific requirements of this  
15 section, school districts may use lottery revenues for  
16 intramural sports programs and for activities related to sports  
17 programs, such as cheerleading, band and pep clubs.

18 Specifically, each school district shall establish the following  
19 extracurricular programs for all middle schools and junior high  
20 schools in the district as follows:

21 (1) in the first year that lottery revenues are  
22 distributed, an interscholastic basketball program shall be  
23 established;

24 (2) in the second year that lottery revenues  
25 are distributed, interscholastic football and volleyball

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1 programs shall be established;

2 (3) in the third year that lottery revenues are  
3 distributed, a fine arts program, including both art and music,  
4 shall be established; and

5 (4) in the fourth and fifth years that lottery  
6 revenues are distributed, vocational training programs such as  
7 auto mechanics and woodshop shall be established.

8 D. As used in this section, "membership" means the  
9 total enrollment of qualified middle school and junior high  
10 students in the school district on the fortieth day of the  
11 school year, as membership is defined and determined for  
12 purposes of the Public School Finance Act.

13 Section 3. Section 6-24-24 NMSA 1978 (being Laws 1995,  
14 Chapter 155, Section 24) is amended to read:

15 "6-24-24. DISPOSITION OF REVENUE. --

16 A. As nearly as practical, an amount equal to at  
17 least fifty percent of the gross annual revenues from the sale  
18 of lottery tickets shall be returned to the public in the form  
19 of lottery prizes.

20 B. The authority shall transmit all net revenues to  
21 the state treasurer who shall deposit sixty percent of the  
22 revenues in the public school [~~capital outlay fund for~~  
23 ~~expenditure pursuant to the provisions of the Public School~~  
24 ~~Capital Outlay Act~~] extracurricular activities fund and forty  
25 percent in the lottery tuition fund. Estimated net revenues

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1 shall be transmitted monthly to the state treasurer for deposit  
2 in the funds, provided the total amount of annual net revenues  
3 for the fiscal year shall be transmitted no later than August 1  
4 each year.

5 C. In determining net revenues, operating expenses  
6 of the lottery include all costs incurred in the operation and  
7 administration of the lottery and all costs resulting from any  
8 contracts entered into for the purchase or lease of goods or  
9 services required by the lottery, including but not limited to  
10 the costs of supplies, materials, tickets, independent audit  
11 services, independent studies, data transmission, advertising,  
12 promotion, incentives, public relations, communications,  
13 commissions paid to lottery retailers, printing, distribution of  
14 tickets, purchases of annuities or investments to be used to pay  
15 future installments of winning lottery tickets, debt service and  
16 payment of any revenue bonds issued, contingency reserves,  
17 transfers to the reserve fund and any other necessary costs  
18 incurred in carrying out the provisions of the New Mexico  
19 Lottery Act.

20 D. An amount up to two percent of the gross annual  
21 revenues shall be set aside as a reserve fund to cover bonuses  
22 and incentive plans for lottery retailers, special promotions  
23 for retailers, purchasing special promotional giveaways,  
24 sponsoring special promotional events, compulsive gambling  
25 rehabilitation and such other purposes as the board deems

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1 necessary to maintain the integrity and meet the revenue goals  
2 of the lottery. The board shall report annually to the governor  
3 and each regular session of the legislature on the use of the  
4 money in the reserve fund. Any balance in excess of fifty  
5 thousand dollars (\$50,000) at the end of any fiscal year shall  
6 be transferred to the lottery tuition fund."

7 Section 4. Section 6-24-27 NMSA 1978 (being Laws 1995,  
8 Chapter 155, Section 27) is amended to read:

9 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--INDEPENDENT  
10 AUDITS.--

11 A. The board shall:

12 (1) submit quarterly and annual reports to the  
13 governor, legislative finance committee and lottery oversight  
14 committee disclosing the total lottery revenue, prizes,  
15 commissions, ticket costs, operating expenses and net revenues  
16 of the authority during the reporting period and, in the annual  
17 report, describe the organizational structure of the authority  
18 and summarize the functions performed by each organizational  
19 division within the authority;

20 (2) maintain weekly or more frequent records of  
21 lottery transactions, including the distribution of lottery  
22 tickets to retailers, revenue received, claims for prizes,  
23 prizes paid, prizes forfeited and other financial transactions  
24 of the authority; and

25 (3) use the state government fiscal year.

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1           B. The board shall provide, for informational  
2 purposes, to the department of finance and administration and  
3 the legislative finance committee, by December 1 of each year, a  
4 copy of the annual proposed operating budget for the authority  
5 for the succeeding fiscal year. This budget proposal shall also  
6 be accompanied by an estimate of the net revenues to be  
7 deposited in the public school [~~capital outlay~~] extracurricular  
8 activities fund and the lottery tuition fund for the current and  
9 succeeding fiscal years.

10           C. The board shall contract with an independent  
11 certified public accountant or firm for an annual financial  
12 audit of the authority. The certified public accountant or firm  
13 shall have no financial interest in any lottery contractor. The  
14 certified public accountant or firm shall present an audit  
15 report no later than March 1 for the prior fiscal year. The  
16 certified public accountant or firm shall evaluate the internal  
17 auditing controls in effect during the audit period. The cost  
18 of this financial audit shall be an operating expense of the  
19 authority. The legislative finance committee may, at any time,  
20 order an audit of any phase of the operations of the authority,  
21 at the expense of the authority, and shall receive a copy of the  
22 annual independent financial audit. A copy of any audit  
23 performed by the certified public accountant or ordered by the  
24 legislative finance committee shall be transmitted to the  
25 governor, the speaker of the house of representatives, the

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1 president pro tempore of the senate, the legislative finance  
2 committee and the lottery oversight committee."

3 Section 5. EFFECTIVE DATE. --The effective date of the  
4 provisions of this act is July 1, 1997.

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